

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

OCTAVIO PAQUE,

Defendant.

Case No. 19-cr-00611-BLF-2

**ORDER DENYING DEFENDANT'S
CORRECTED EX PARTE MOTION TO
EXTEND THE SELF-SURRENDER
DATE**

[Re: ECF 149]

After pleading guilty to Count One of the Indictment, charging him with conspiracy to distribute and possess with intent to distribute controlled substances, Defendant Octavio Paque ("Paque") was sentenced to a 24-month term of imprisonment and a 3-year term of supervised release. Judgment was entered on December 19, 2022. *See* Jud., ECF 138.

Paque now moves to extend his self-surrender date from March 9, 2023 to April 10, 2023, so that his counsel can investigate the viability of a motion to withdraw his guilty plea or a motion for relief under 28 U.S.C. § 2255. *See* Am'd Mot., ECF 149. The Government opposes extension of the self-surrender date. *See* Opp., ECF 152. As pointed out by the Government, this Court is without jurisdiction to consider a motion to withdraw Paque's guilty plea because he already has been sentenced. *See United States v. Baker*, 790 F.2d 1437, 1438 (9th Cir. 1986). A motion for relief under 28 U.S.C. § 2255 would take a substantial amount of time to brief and resolve, and therefore the possibility that Paque may file such a motion does not warrant extension of his current self-surrender date. Paque's motion to extend his self-surrender date is DENIED.

IT IS SO ORDERED.

Dated: March 6, 2023


 BETH LABSON FREEMAN
 United States District Judge